



INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-830

CERTAIN DIMMABLE COMPACT FLUORESCENT LAMPS AND PRODUCTS CONTAINING SAME

NOTICE OF INSTITUTION OF CONSOLIDATED FORMAL ENFORCEMENT AND MODIFICATION PROCEEDINGS

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted consolidated formal enforcement and modification proceedings relating to the July 25, 2012 consent order issued in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jia Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-4737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 27, 2012, based on a complaint filed by Andrzej Bobel and Neptun Light, Inc., both of

Lake Forest, Illinois. 77 *Fed. Reg.* 11587 (Feb. 27, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) by reason of infringement of various claims of United States Patent Nos. 5,434,480 (“the ’480 patent”) and 8,035,318. The complaint named several respondents, including MaxLite, Inc. (“MaxLite”) of Fairfield, New Jersey. The complaint alleged, among other things, that the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dimmable compact fluorescent lamps (“CFLs”) and products containing the same by MaxLite violate section 337 by reason of infringement of claim 9 of the ’480 patent. On July 25, 2012, the Commission terminated the investigation with respect to MaxLite and entered a consent order preventing MaxLite from importing dimmable CFLs that infringe claim 9 of ’480 patent.

On February 6, 2013, MaxLite petitioned the Commission under Commission Rule 210.76 for modification of the consent order on the basis of a recent decision by the U.S. District Court for the Northern District of Illinois that dimmable CFLs purchased by MaxLite from a certain third party are subject to a covenant not to sue and thus do not infringe claim 9 of the ’480 patent. On February 18, 2013, complainants filed a complaint requesting that the Commission institute a formal enforcement proceeding under Commission Rule 210.75(b) to investigate a violation of the consent order. Complainants request that the Commission institute a formal enforcement proceeding pursuant to 19 C.F.R. § 210.75, to confirm the violations of the July 25, 2012, consent order. On March 1, 2013, complainants filed an amended complaint.

Having examined the enforcement complaint, as amended, and the petition for modification, the Commission has determined to institute consolidated formal enforcement and modification proceedings to determine whether MaxLite is in violation of the July 25, 2012, consent order issued in the investigation, what, if any, enforcement measures are appropriate,

and whether to modify the consent order. The following entities are named as parties to the consolidated proceedings: (1) complainants Andrzej Bobel and Neptun Light, Inc.; (2) respondent MaxLite; and (3) the Office of Unfair Import Investigations.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.75-76 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.75-76).

By order of the Commission.

Lisa R. Barton

Secretary to the Commission

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